

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 278

This is an advisory opinion in response to your letters requesting advice from the Ethics Commission about whether certain types of business activity would create a conflict of interest with your City position.

The Commission understands the facts relative to your inquiry to be as follows:

You are a civil engineer in the City's Department of Transportation Services [DTS]. You anticipate entering into some type of part-time business outside of your customary City work hours.

You are considering starting a partnership with an unnamed person who works as a mechanical engineer but is not yet licensed in Hawaii. You would solicit business from architects to provide the mechanical engineering portion of construction projects. You would not use your own engineer's stamp on this work, but would collaborate with a licensed mechanical engineer who would stamp the drawings.

Alternatively, you are considering starting a business partnership with a person employed by DTS. You would solicit business from contractors for the purpose of painting markings in private parking lots and state contracts.

The ethical question presented is whether either proposed partnership would be incompatible with the proper discharge of your City duties.

The general rules in relation to your question are found in the Revised Charter of the City and County of Honolulu 1973 (1994 Ed.) [RCH]. Section 11-102 (c) states in pertinent part:

No elected or appointed officer or employee shall... [e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties.

Section 11-104, RCH, entitled *Fair and Equal Treatment*, states as follows:

Elected or appointed officers or employees shall not use their official positions to secure or grant special consideration, treatment, advantage, privilege or exemption to themselves or any person beyond that which is available to every other person.

Based on the evidence presented, the Commission unanimously finds that if you create either partnership you **may not** solicit business for the partnership from any person with whom you have dealt in your professional capacity at DTS as long as you continue in your present position. Furthermore, you **may not** accept any work which will be reviewed by DTS at any stage of the process as long as you continue to work for DTS. Additionally, you are cautioned that it is a violation of the City's ethics laws to use City time, equipment, or supplies for any non-City business purposes.

Dated: April 9, 1997

GOLDIE D. BRANGMAN-DUMPSON
Chair, Ethics Commission